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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/533,263	03/17/2000	Wilbur J. Walkoe JR.	8285/347	7066
757	7590	06/02/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE			PIZARRO, RICARDO M	
P.O. BOX 10395			ART UNIT	
CHICAGO, IL 60610			PAPER NUMBER	
			2661	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/533,263

Applicant(s)

WALKOE ET AL.

Examiner

Ricardo Pizarro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 42,44-49 and 51-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42,44-49,51,54-56,59 and 61 is/are rejected.
- 7) ☒ Claim(s) 52,53,57, 58 and,60 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: It is requested to applicant to update the status of copending application 09/119,164 listed in page 1 of the instant application.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to because in Fig. 3 element 41, 44, 46, 48 and 69 need to be labeled as "Network Interface Device", "Splitter", "High-pass filter", "Low pass filter" and "Digital telephone" respectively. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

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the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 42,44 , 45, 54-56, 59 and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent No.6,282,189 (Eames)

Regarding claim 42 Eames discloses a unified access platform comprising an analog telephone line having analog voice signal carried on a subscriber loop ( analog line 181 in Fig. 3 carried on loop 180 , col 6 lines 35-37) , providing a digital line carried on the subscriber loop ( digital line 181 towards device 200 in Fig.3 carried on loop 180 col 6 lines 38-42), said digital line having a digital voice channel ( digital line being considered a digital channel), placing a telephone voice call over the digital voice channel of the digital line ( placing voice call on digital phone 194, col 6 line 42)and interfacing a voice call with a switch protocol ( PSTN/ multiplexer switch USAM interface 303 in Fig. 3, col 6 lines 48-49).

Regarding claim 44, converting the telephone voice signal to the switch protocol ( to PSTN),

Regarding claim 45, converting the telephone voice carried by the data protocol to an analog voice signal ( BDT 130 in Fig. 3 interfaces between digital data and PSTN analog signal)

Regarding claim 46, a subscriber location comprising a subscriber loop carrying an analog telephone voice line and a digital line, wherein the digital line comprises an asymmetric digital subscriber line having a digital voice line, a digital telephone in communication with the subscriber loop and a POTS telephone in communication with said loop, where in the subscriber location provides for separate telephone voice calls on the digital phone and the POTS phone over the loop,

Regarding claim 47, the subscriber loop comprised a copper twisted pair ( col 6 line 15).  
Regarding claim 48, the POTS telephone in communication with the subscriber loop via the analog phone ( in communication with analog phone 194A in Fig. 3), the digital

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phone in communication with the subscriber loop via the digital telephone line ( digital phone 194B in communication via digital line 181B in Fig. 3), wherein the analog telephone line and the digital line communicate with the subscriber loop via a network interface device ( NID 360 in Fig. 3)

Regarding claim 54, Eames discloses a telephone communication system comprising: at least one digital telephone ( telephone 194 B in Fig. 3) in communication with a digital telephone voice line on a digital data line( digital line 181B in Fig. 3); and at least one POTS telephone ( telephone 194A in Fig. 3) in communication with an analog telephone line( analog telephone line 181A in Fig. 3) ; a network interface device NID 360 in Fig. 3) connected to a subscriber loop( loop 180 in Fig. 3) , wherein the network interface device comprises a signal splitter configured to combine telephone voice signals received from the analog telephone line and digital data line onto the subscriber loop and separate telephone voice signals received from the subscriber loop onto an appropriate one of the analog telephone line and digital data line ( separation takes place at the NID/FILTER device 360 in Fig. 3, col 6 lines31-32) ; the subscriber loop carrying the digital data line and the analog telephone line on a common communication medium ( loop 180 carries analog and digital lines) ; and a central office switch configured to communicate with the subscriber loop ( USAM switch in communication with the loop 180) , the central office switch having a splitter for separating signals on the subscriber loop into analog telephone line telephone voice signals and digital data line signals, wherein the digital data line signals comprise digital telephone voice line voice signals ( BDT 130 in Fig. 3 interfaces between digital data and PSTN analog signal separating said signals)

Regarding claim 55, wherein the central office switch further comprises a local telephone switching device in communication with the splitter( modem 350 located in USAM switch 340 in communication with splitter device BDT 130 in Fig. 3) , the local telephone switching device configured to receive the analog telephone line voice signals for transmission over a public switched telephone network ( for transmission to PSTN 100 in Fig. 3)

Regarding claim 56, wherein the central office switch further comprises a digital subscriber line access multiplexer in communication with the splitter for multiplexing the digital data line signals into a format for transport over a data network ( central Office switch 340 is a Universal Access Multiplexer device, col 6 lines 11-12).

Regarding claim 59, wherein the common communication medium comprises a copper twisted pair ( col 6 line 15).

Regarding claim 61,, wherein the signal splitter of the network interface device comprises a low pass filter connected to the analog telephone line and a high pass filter connected to the digital data line, whereby the high pass filter is configured to pass an asymmetric digital subscriber line digital signal carrying a telephone voice call to the digital telephone and the low pass filter is configured to pass a POTS telephone call to the POTS telephone ( NID/filter 360 is used to separate the analog telephone signal POTS from the digital signals ADSL and then are passed to the respective analog or digital phones 194 in Fig. 3,col 6 lines 30-36) .

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 49, 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No.6,282,189 (Eames).

Regarding claim 49, Eames discloses a method of placing a telephone voice call over PSTN comprising :providing a subscriber loop (subscriber loop 180 in Fig. 3) having an analog telephone voice line ( analog line 181) and a digital line where in the digital data line comprises a digital telephone voice ( digital line 181 in Fig. 3 going towards gateway 200) and placing a telephone voice call from a digital telephone in communication with the digital line ( placing a voice call from digital phone 194 in Fig. 3) , sending the telephone voice call on the subscriber loop to the PSTN ( sending call over the interface 303 in Fig.3, col 6 lines 48-49), wherein sending the telephone voice call from the digital telephone comprises converting an analog voice signal into a packetized digital data stream ( NID filter 360 converts analog signal to digital signals)

Eames did not specifically disclose in the embodiment shown in Fig. 3 sending the signal over to a subscriber ATM data network, as in claim 49.



However in the embodiment shown in Fig. 7 Eames discloses sending said signals over to a subscriber ATM data network ( ie devices 198, 193 receive and extract ATM cells , col 9 lines 39-40 and 57-61).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine both embodiment in Eames to have a system capable of providing telephone and high speed data services in a number of different loop configurations.

The motivation to do so is to obtain a system that can combine high speed data signals with digital telephony signals and generate a combined high speed data and analog telephone signal .

Regarding claim 51, said packetized data has an ATM format ( col 9 lines 39-40)

### ***Allowable Subject Matter***

7. Claims 52,53, 57-58, 60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

### ***Conclusion***

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US patent No. 6,081,517 ( Liu) discloses a Digital subscriber loop[ access for digital switch and packet network connections . Please refer to figs 2 and 3 more specifically to DSLA and splitter element in Fig. 3.

US patent No. 6,829,250 ( Voit) discloses an automatic programming of customer premises including a Central Office 15 having a DSLM 17 element and an ATM switch 19 in Fig. 1.

**9. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 220 South 20<sup>th</sup> Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9306.

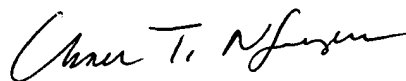
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chau Nguyen** can be reached on (571) 272-3126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

23-May-05

Ricardo Pizarro



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600